IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WP(C).No. 15105 of 2006(W)

AGAINST THE ORDER IN EP. 94 /2000 IN
OS.161/1997 of MUNSIFF COURT, HOSDRUG

.....

PETITIONER:

ARAVINDAN MANIKOTH,
AGED 48 YEARS, S/O.K.V.AMBU VAIDHYAR,
EDITOR AND PUBLISHER OF `LATEST' DAILY,
KOVVALPALLY, KANHANGAD VILLAGE, HOSDURG TALUK.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENT:

E.N.SOMAN, S/O.NARAYANAN,
SUB ENGINEER, ELECTRICAL SECTION,
MAVUNGAD JUNCTION, KASARGOD (DIST).

BY ADV. SRI.V.RAJENDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)15105/06

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: CERTIFIED COPY OF PETITION WITH DOCKET ORDER OF EXECUTION COURT.

EXT.P2: TRUE COPY OF FIR WITH F.I. STATEMENT IN CRIME NO.152/06 OF HOSDURG POLICE STATION.

EXT.P3: TRUE COPY OF CERTIFICATE DATED 16.5.06 ISSUED BY DR. DINESH KADAM, PLASTIC AND MICRO VASCULAR SURGEON, A.J. HOSPITAL AND RESEARCH CENTRE, MANGALORE.

/TRUE COPY/

PA TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.15105 OF 2006

DATED THIS THE 15th DAY OF DECEMBER, 2006

JUDGMENT

Petitioner is the judgment debtor. Respondent is the decree holder. This petition is filed under Article 227 of Constitution of India challenging Ext.P1 order directing petitioner to pay the balance decree debt on or before 30.3.06. As per order dated 12.6.06, this Court directed petitioner to deposit Rs.5,000/- as a condition for granting order of stay for six months. The prayer in the petition is to permit him to pay the balance decree debt in monthly instalments at the rate of Rs.2,000/-.

2. Learned Counsel appearing for petitioner and respondent were heard.

3. As pointed out by learned Counsel appearing for respondent the prayer in the petition was to permit him to pay the decree debt in monthly instalments at the rate of Rs.2,000/-. By depositing of Rs.5,000/-, he had already availed six months time. According to learned Counsel appearing for petitioner, out of Rs.40,000/- due under the decree he has already paid Rs.19,000/-.

4. Considering the entire facts and circumstances, petitioner

is permitted to pay the balance decree debt in six equal monthly instalments . First instalment will fall due on 15.1.07. It is made clear that if petitioner commits default in payment of two consecutive instalments, learned Munsiff has to proceed with the execution petition.

M.SASIDHARAN NAMBIAR,JUDGE

Acd